

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

00-CR-6148CJS

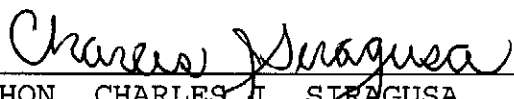
WAYNE GASKIN,

Defendant.

In accordance with United States v. Crosby, 397 F.3d 103 (2d Cir. 2005), after having obtained the views of counsel for the parties, the Court having determined *sua sponte* that re-sentencing was necessary, and the defendant having petitioned the Court to re-sentence the defendant for those reasons set forth in his papers, the Court, after consideration of the facts of this case, and having considered the various factors set forth in 18 U.S.C. § 3553, hereby determines that, for the reasons set forth in the bench decision of March 4, 2009, as memorialized in the attached transcript, it would not impose a sentence that is "nontrivially different" from that previously imposed. Accordingly, this Court determines that no re-sentencing is required, but in any event finds that it would have imposed the same sentence as originally imposed.

IT IS SO ORDERED.

DATED: Rochester, New York, March 16, 2009.



HON. CHARLES J. SIRAGUSA
United States District Court Judge